

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47404 of 2012

Arising Out of PS.Case No. -100 Year- 2009 Thana -null District- SEKHPURA

1. Arun Kumar Son Of Brij Mohan Prasad Resident Of Village- Kutubchak, Police Station- Barbigha And District- Sheikhpura

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. M. Kumar-2, Adv.
Mr. N.K. Chaudhary, Adv.

For the Opposite Party/s : Mr. T.P.Mandal, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 21-04-2015

The instant application under section 482 of the Code of Criminal Procedure (hereinafter referred to as 'the Code') has been filed for quashing the order dated 05.11.2012 passed by the learned Adhoc Additional District & Sessions Judge-I, Sheikhpura in Sessions Trial No. 732 of 2009, whereby he has rejected the petition dated 03.10.2012/ 05.10.2012 filed by the petitioner for verification of the writings made over the seal of the seized articles by an expert.

The prosecution story is that on 25.03.2009 at 9.00 p.m. the Officer-in-Charge of Sheikhpura Police Station received secret information that near the Tothiya Hill a person has kept explosive substance. On such information, the Officer-in-Charge of the Police Station along with other police personnel reached near Tothiya Hill,



and in presence of two witnesses, house of one Rajaram was searched. It has been alleged that several articles like Ammonium Nitrate 125 kg., certain other explosive substances, Fuse wire etc. were recovered. One person, who was present in the house, started fleeing away. He was arrested and on interrogation he disclosed his name as Arun Kumar (petitioner). He further disclosed that he happens to be the brother-in-law of Rajaram Prasad, who is presently in jail. On the basis of said information, a case was registered under sections 4 and 5 of the Explosive Substances Act, 1908 against the petitioner and investigation was taken up. On conclusion of investigation, the police submitted report under section 173(2) of the Code before the Magistrate concerned. The learned Magistrate took cognizance of the offence and committed the case to the court of Sessions for trial. Since the petitioner denied to accept the guilt, he was put on trial.

After examination of 7 witnesses on behalf of the prosecution, an application dated 03.10.2012/05.10.2012 was filed by the petitioner before the trial court praying therein that the seal and signature of the material exhibits produced before the court may be verified by an expert as the petitioner had serious apprehension about the authenticity of the seal and signature over the material exhibits.

Learned court below heard the parties and rejected the application filed on behalf of the petitioner on the ground that the application was thoroughly misconceived and it has been filed with the sole motive to linger the trial.

Learned counsel for the petitioner has submitted that as a matter of fact no explosive substance was recovered from the conscious possession of the petitioner. The police have implicated the petitioner in the present case with ulterior motive. They are not even hesitating in fabricating the material against the petitioner in order to prove his guilt. In order to have a fair trial, the petitioner has filed the application before the trial court seeking verification of the seal and signature found over the material exhibits seized and produced before the court.

In my considered opinion, the application is thoroughly misconceived. In course of arguments, learned counsel for the petitioner has fairly conceded that by now all the prosecution witnesses have already been examined before the court and the case has been kept pending only because the present application filed under section 482 of the Code is pending before this Court. It is well settled that an accused cannot compel the court or the prosecution to conduct trial of a criminal case as per his own dictate. The defence has all the liberty to cross-examine a witness or to lead evidence on

its own behalf. But the defence cannot dictate the terms or the manner in which trial of a case is to be held.

In that view of the matter, I find that the application filed by the petitioner is nothing but an abuse of the process of the Court. Accordingly, the application, being devoid of any merit, is dismissed.

The court below is directed to expedite the trial and conclude the same as early as possible.

(Ashwani Kumar Singh, J)

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